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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOONG SEO PARK and HYUN MOK YU

Appeal 2009-013381
Application 10/662,406
Technology Center 2600

Before, ROBERT E. NAPPI, THOMAS S. HAHN, and
CARL W. WHITEHEAD, JR., Administrative Patent Judges.

WHITEHEAD, JR., Administrative Patent Judge.

DECISION ON APPEAL

STATEMENT OF THE CASE

Introduction

Appellants appeal under 35 U.S.C. § 134 from a final rejection of claims 5-8, 14-17 and 19-30. Claims 1-4, 9-13 and 18 have been canceled. Appeal Brief. 2. We have jurisdiction under 35 U.S.C. § 6(b) (2002). We affirm.

Exemplary Claim

Exemplary independent claim 5 under appeal reads as follows:

5. A driving apparatus for a plasma display panel in which one frame period is time-divided into a plurality of sub-fields each given by a certain weighting value, said driving apparatus comprising:
a gray level detector for detecting a gray level distribution of a data; and
an adjuster for adjusting at least one of the number of sustaining pulses or a sub-field arrangement in accordance with a gray level distribution of said data.

Rejections on Appeal

Claims 5, 6, 14, 15, 21, 22, 28 and 29 stand rejected under 35 U.S.C. § 102(b) as being unpatentable over U.S. Patent Number 6, 222, 512 B1 issued to Tajima ("Tajima").

Claims 7, 8, 16 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tajima and U.S. Patent Publication Number 2003/0011626 A1 issued to Tanabe ("Tanabe").

Claims 19 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tajima and AAPA (Figure 1; page 1, line 1 to page 4, line 30 of Specification).

Claims 23-27 and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tajima.

Appellants' Contentions

1. Appellants contend that, "[N]either the FQ signal nor the RCA1 signal is indicative of a detected gray-scale level distribution of input data as recited in claim 5." Appeal Brief 12. Neither of these signals corresponds to a detected gray-scale level distribution of input data as recited in claim 5. "Accordingly, adjustment means 75 does not perform the function of an adjuster which adjusts 'at least one of the number of sustaining pulses or a subfield arrangement in accordance with a gray level distribution of said data' as in claim 5." Appeal Brief 12-13.

2. Appellants contend that "[T]he Tajima patent makes no disclosure, express or implied, of a gray level detector, or of adjusting a subfield arrangement based on a gray-scale level distribution detected by a detector." Appeal Brief 14.

3. Appellants contend that Tajima does not disclose various claim limitations recited in claims 6, 14, 21 and 29. Appeal Brief 15-16.

4. Appellants contend that the combination of Tajima and Tanabe does not disclose claim limitations recited in claims 7, 8, 16 and 17. Appeal Brief 16-17.

5. Appellants contend that the combination of Tajima and AAPA does not teach or "suggest the features of base claim 5 missing from the Tajima patent." Appeal Brief 17.

6. Appellants contend that claims 23-27 and 30 are not obvious over Tajima because Tajima does not teach or suggest the features of claims 23-27 and 30. Appeal Brief 18-20.

Issue on Appeal

Did the Examiner err in rejection claims 5-8, 14-17 and 19-30 because Tajima fails to suggest or teach a gray level detector and an adjuster for adjusting at least one of the number of sustaining pulses or a subfield arrangement in accordance with a gray level distribution of data.

PRINCIPLE OF LAWS

In rejecting claims under 35 U.S.C. § 102, "[a] single prior art reference that discloses, either expressly or inherently, each limitation of a claim invalidates that claim by anticipation." Perricone v. Medicis Pharmaceutical Corp., 432 F.3d 1368, 1375-76 (Fed. Cir. 2005)(citing Minn. Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc., 976 F.2d 1559, 1565 (Fed. Cir. 1992)). Also See In re Paulsen, 30 F.3d 1475, 1478-79 (Fed. Cir. 1994). "Anticipation of a patent claim requires a finding that the claim at issue 'reads on' a prior art reference." Atlas Powder Co. v. IRECO, Inc., 190 F.3d 1342, 1346 (Fed. Cir. 1999) (quoting Titanium Metals Corp. of America v. Banner, 778 F.2d 775, 781 (Fed. Cir. 1985)).

"[T]he PTO gives claims their 'broadest reasonable interpretation.'" In re Bigio, 381 F.3d 1320, 1324 (Fed. Cir. 2004) (quoting In re Hyatt, 211 F.3d 1367, 1372 (Fed. Cir. 2000)). "Moreover, limitations are not to be read into the claims from the specification." In re Van Geuns, 988 F.2d 1181, 1184 (Fed. Cir. 1993) (citing In re Zletz, 893 F.2d 319, 321 (Fed. Cir. 1989)).

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. See In re Fine, 837 F.2d 1071, 1073 (Fed. Cir. 1988). In so doing, the Examiner must make the factual determinations set forth in

Graham v. John Deere Co., 383 U.S. 1, 17 (1966). If the Examiner's burden is met, the burden then shifts to the Appellants to overcome the prima facie case with argument and/or evidence. Obviousness is then determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. See In re Oetiker, 977 F.2d 1443, 1445 (Fed. Cir. 1992).

ANALYSIS

We have reviewed the Examiner's rejections in light of the Appellants' arguments (Appeal Brief and Reply Brief) that the Examiner has erred.

We disagree with the Appellants' conclusion. We adopt as our own (1) the findings and reasons set forth by the Examiner in the action from which this appeal is taken and (2) reasons set forth by the Examiner in the Examiner's Answers[1] in response to Appellants' Appeal Brief. We concur with the conclusion reached by the Examiner.

CONCLUSION

(1) The Examiner has not erred in rejecting claims 5, 6, 14, 15, 21, 22, 28 and 29 as being unpatentable under 35 U.S.C. § 102(b).

(2) The Examiner has not erred in rejecting claims 7, 8, 16, 17, 19, 20, 23-27 and 30 as being unpatentable under 35 U.S.C. § 103(a).

[1] We are referring to the Examiner's Answer mailed September 11, 2007 and the Supplemental Examiner's Answer mailed June 2, 2009.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(v).

AFFIRMED

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